

FILED
U.S. DISTRICT COURT
DISTRICT OF MINNESOTAUNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

05 OCT 21 AM 11:49

OFFICE OF THE CLERK

Rafael Madrid-Ojeda,

Civil No. 05-1824 (DWF/SRN)

Petitioner,

v.

ORDER

United States of America,

Respondent.

Rafael Madrid-Ojeda, *Pro Se*, Petitioner.James E. Lackner, Assistant United States Attorney, United States Attorney's Office, counsel for
Respondent.

The above-entitled matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Susan Richard Nelson dated August 22, 2005. No objections have been filed to that Report and Recommendation in the time period permitted.

Based on the Report and Recommendation of the Magistrate Judge, and all of the files, records and proceedings herein,

IT IS HEREBY ORDERED that:

1. Petitioner's application for habeas corpus relief under 28 U.S.C. § 2241 (Doc. No. 1) is construed to be a motion to vacate his conviction and sentence pursuant to 28 U.S.C. § 2255; and

Attorney General's Office 2
Office of the Attorney General
U.S. Department of Justice
Washington, D.C. 20530
Certified to the Court 10/19/05
BY: *Emmalee*

2. The Clerk of Court is directed to transfer this action to the District of Nebraska pursuant to 28 U.S.C. §§ 1406(a) and 1631.

Dated: September 12, 2005

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court